

**Baker Tilly Virchow Krause, LLP**

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Ellen Labita, Partner

Catherine Petercsak, Manager

*Tax Accountants to the Debtor and Debtor-in- Possession***UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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In re	:	Chapter 11
	:	
DOWLING COLLEGE,	:	
f/d/b/a DOWLING INSTITUTE,	:	Case No. 16-75545 (REG)
f/d/b/a DOWLING COLLEGE ALUMNI	:	
ASSOCIATION,	:	
f/d/b/a CECOM,	:	
a/k/a DOWLING COLLEGE, INC.,	:	
Debtor.	:	

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**SUMMARY OF SECOND INTERIM AND FINAL APPLICATION OF BAKER TILLY  
VIRCHOW KRAUSE, LLP, LOCAL BANKRUPTCY AND CONFLICTS COUNSEL FOR  
THE DEBTOR AND DEBTOR-IN-POSSESSION, PURSUANT TO BANKRUPTCY CODE  
SECTIONS 330 AND 331 FOR ALLOWANCE OF COMPENSATION AND  
REIMBURSEMENT OF EXPENSES**

Name of Applicant:	Baker Tilly Virchow Krause, LLP
Compensation Period:	June 1, 2018 through January 14, 2019 (Second Interim Compensation Period); September 27, 2017 through January 14, 2019 (Representation Period)
Role in This Case:	Tax Accountants to the Debtor and Debtor in Possession
Current Application:	
Total Fees Requested for the Second Interim Compensation Period:	\$5,115.75
Total Fees Requested for the Representation Period:	\$30,115.75
Total Expenses Requested for the Second Interim Period:	\$0
Total Expenses Requested for the Representation Period:	\$0
Petition Date:	November 29, 2016

Retention Date:	September 27, 2017
Date of Order Approving Employment:	October 17, 2017
Blended Rate for the Second Interim Compensation Period for All Tax Accountants:	\$384.64
Compensation Sought for the Second Interim Compensation Period Already Paid Pursuant to a Monthly Compensation Order But Not Yet Allowed:	\$0
Expenses Sought for the Second Interim Compensation Period Already Paid Pursuant to a Monthly Compensation Order But Not Yet Allowed:	\$0
PRIOR APPLICATION	
<i>First Application for Period of September 27, 2017 to May 31, 2018</i>	
Total Fees Requested:	\$25,000.00
Total Fees Allowed and Paid on Interim	\$20,000.00
Total Fees Outstanding from Period:	\$5,000.00
Total Expenses Requested:	\$0.00
Total Expenses Paid:	\$0.00
Are any rates higher than those approved or disclosed at retention?	No.

This is an: ☐ interim ☒ final application.

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**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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In re	: Chapter 11
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DOWLING COLLEGE,	:
f/d/b/a DOWLING INSTITUTE,	: Case No. 16-75545 (REG)
f/d/b/a DOWLING COLLEGE ALUMNI	:
ASSOCIATION,	:
f/d/b/a CECOM,	:
a/k/a DOWLING COLLEGE, INC.,	:
Debtor.	:
-----X	

**SECOND INTERIM AND FINAL APPLICATION OF BAKER TILLY VIRCHOW  
KRAUSE, LLP, TAX ACCOUNTANTS FOR THE DEBTOR AND DEBTOR-IN-  
POSSESSION, PURSUANT TO BANKRUPTCY CODE SECTIONS 330 AND 331 FOR  
ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES**

**TO THE HONORABLE ROBERT E. GROSSMAN,  
UNITED STATES BANKRUPTCY JUDGE:**

Baker Tilly Virchow Krause, LLP (“BTVK”), tax accountants to Dowling College, (the “Debtor”), debtor and debtor- in-possession in the above-captioned chapter 11 case (the “Chapter 11 Case”), as and for its application (“Application”) respectfully submits this second interim and final application (“Application”), pursuant to sections 330 and 331 of title 11 of the United States Code (the “Bankruptcy Code”), for (a) allowance of compensation for professional services rendered to the Debtor and for reimbursement of actual and necessary costs and expenses incurred in

connection with BTVK's representation of the Debtor in the Bankruptcy Case during the period from June 1, 2018 through January 14, 2019 (the “Second Interim Compensation Period”), and (b) allowance, on a final basis, of compensation for professional services rendered to the Debtor and for reimbursement of actual and necessary costs and expenses incurred in connection with BTVK’s representation of the Debtor in the Bankruptcy Case during the period from September 27, 2017 through January 14, 2019 (the “Representation Period”), and in support of its Application, respectfully represents as follows:

### **Introduction**

1. This application is respectfully submitted by BTVK for a final allowance of compensation and reimbursement of expenses for all services rendered to the Debtor for the Second Interim Period and the Representation Period, as follows:

Total Fees Requested for the Second Interim Compensation Period:	\$5,115.75
Total Expenses Requested for the Second Interim Compensation Period:	\$0.00
<b>Total Sought for the Second Interim Compensation Period:</b>	<b>\$5,115.75</b>
Total Fees Requested for the Representation Period:	\$30,115.75
Total Expenses Requested for the Representation Period:	\$0.00
<b>Total Sought for the Representation Period:</b>	<b>\$30,115.75</b>

2. During the Second Interim Compensation Period, BTVK committed a total of 13.30 hours of professional time, resulting in an average hourly billing rate of \$384.64. Copies of the detailed accountant time records for the Second Interim Compensation Period are annexed hereto as **Exhibit A** and summaries of the time records broken down by timekeeper and billing task code are annexed as **Exhibits B** and **C**, respectively.

3. Annexed hereto as **Exhibit D** is the certification of Ellen Labita.

### **JURISDICTION**

4. This Court has jurisdiction over this Application by virtue of 28 U.S.C. §§ 157(a) and (b), and 1334(b), and the Administrative Order No. 264 titled “In the Matter of The Referral of Matters to the Bankruptcy Judges” of the United States District Court for the Eastern District of New York (Weinstein, C.J.) dated August 28, 1986.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1409(a) because this proceeding arises in a case under the Bankruptcy Code pending in this district.

### **BACKGROUND**

6. On November 29, 2016 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Eastern District of New York (the or this “Court”).

7. On September 27, 2017, an application to employ BTVK as consultants and tax accountants for the Debtor was filed (the “BTVK Retention Application”) [Docket No. 410]. The BTVK Retention Application was granted by order of the Court dated October 17, 2017 and the retention was approved *nunc pro tunc* to September 27, 2017 (the BTVK Retention Order) [Docket No. 423]. The BTVK Retention Order approved the retention of BTVK as consultants and tax accountants for the Debtor. This Application seeks compensation for BTVK’s role as tax accountants only. Contemporaneously herewith, BTVK is filing a separate application seeking compensation as consultants to the Debtor.

8. On December 21, 2016 the Court entered the *Order Pursuant to 11 U.S.C. §§ 105(a) and 331 Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* (the “Interim Compensation Order”) [Docket No. 117].

9. In accordance with the Interim Compensation Order, BTVK submitted fee

statements seeking interim compensation and reimbursement of expenses. During the Second Interim Compensation Period, BTVK submitted the following fee statement:

(a) On January 14, 2019 pursuant to the Interim Compensation Order, BTVK served its third fee statement for the period from June 1, 2018 through January 14, 2019 (the “Third Fee Statement”). The Third Fee Statement sought an allowance of \$5,115.75 as compensation for services rendered. As of the date hereof, the time for filing objections to the Third Fee Statement has not passed.

10. BTVK has not entered into any agreement, express or implied, with any other party for the purpose of fixing or sharing fees or other compensation to be paid for professional services rendered in these cases. No promises have been received by BTVK as to compensation in connection with this Chapter 11 Case other than in accordance with the provisions of the Bankruptcy Code.

### **SUMMARY OF SERVICES RENDERED**

11. In conformity with the United States Trustee Guidelines For Reviewing Applications For Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, dated January 30, 1996 (the “U.S. Trustee Guidelines”) BTVK has segregated its time entries during the Second Interim Compensation Period into the following project categories, which correspond to the major tasks undertaken by BTVK during the same period:

- A. NYS Property Sales Tax Compliance
- B. Dissolution Tax Compliance Discussions
- C. State Withholdings on Employee Settlement Payments Compliance
- D. Fee Applications

12. In this section of the Application, BTVK describes, in summary fashion, the services performed during the Second Interim Compensation Period by project category.

#### **A. NYS Property Sales Tax Compliance**

13. The “NYS Property Sales Tax Compliance” project category includes time charges by BTVK in relation to time spent for corresponding, researching and analyzing

compliance issues relating to NYS Sales tax on sale of personal property for the College.

14. A total of 2 hours amounting to \$808.75 in fees were incurred by BTVK during the Second Interim Compensation Period.

**B. Dissolution Tax Compliance Discussions**

15. The “Dissolution Tax Compliance Discussions” project category includes time charges by BTVK in relation to time spent for correspondence and discussions on tax compliance for dissolution relating to the Debtor.

16. A total of 2.5 hours amounting to \$900 in fees were incurred by BTVK during the Second Interim Compensation Period.

**C. State Withholdings on Employee Settlement Payments Compliance**

17. The “State Withholdings on Employee Settlement Payments Compliance” project category includes time charges by BTVK in relation to time spent for corresponding, researching and analyzing compliance issues relating to state withholdings on Employee Settlement Payments from the Debtor.

18. A total of 5.55 hours amounting to \$2,237.00 in fees were incurred by BTVK during the Second Interim Compensation Period.

**D. Fee Applications**

19. The “Fee Applications” project category includes time charges by BTVK in relation to time spent for preparing the fee applications.

20. A total of 3.25 hours amounting to \$1,170 in fees were incurred by BTVK during the Second Interim Compensation Period.

**TIME AND DISBURSEMENT RECORDS AND STAFFING**

21. The services performed by BTVK for and on behalf of the Debtor in connection

with the above matters during the Second Interim Compensation Period are detailed and itemized in full in the time and disbursement logs annexed hereto as **Exhibit A**. Set forth on the attached **Exhibit B** is a summary of the persons who performed services on behalf of the Debtor, the hours of services performed by such person, the applicable hourly rate, and the total value of the services performed by each person during the Second Interim Compensation Period.

22. The persons at BTVK that assisted the Debtor on the above matters during the Second Interim Compensation Period are as follows:

a Richard Goldstein, CPA, is a director at BTVK. Ms. Labita is a member of the American Institute of Certified Public Accountants (“AICPA”). Mr. Goldstein’s rate of \$550 per hour is reasonable and such rate was Mr. Goldstein’s normal and customary rate during the period covered by this Application.

b Catherine Petercsak, CPA, is a manager employed by BTVK. Ms. Petercsak is a member of the AICPA. Ms. Petercsak’s rate of \$360 per hour is reasonable and such rate was Ms. Petercsak’s normal and customary rate during the period covered by this Application.

23. The total fees for the services rendered in connection with this case during the Second Interim Compensation Period and Final Fee amounts to \$10,115.75 based upon a total of 13.30 hours relating to the Second Interim Fee. The blended hourly rate for all services provided during the Second Interim Period is \$384.64.



**WHEREFORE**, BTVK respectfully requests that this Court enter an order (a) allowing BTVK the sum of (i) \$5,115.75 as compensation for services rendered during the Second Interim Compensation Period, (b) allowing BTVK, on a final basis, the sum of (i) \$30,115.75 for compensation for services rendered during the Representation Period, (c) authorizing and directing the payment to BTVK such allowed amounts to the extent not already paid pursuant to the Interim Compensation Order and prior interim orders of the Court, and (d) granting BTVK such other and further relief as the Court deems just and proper.

Dated: New York, New York  
January 14, 2019

**BAKER TILLY VIRCHOW KRAUSE,  
LLP**

By: /s/ Ellen Labita  
Ellen Labita  
125 Baylis Road  
Melville, New York 11747  
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Email: ellen.labita@bakertilly.com

*Tax Accountants to the Debtor and  
Debtor-in-Possession*

# **Exhibit A**

**Dowling College**

<u>Date</u>	<u>Project</u>	<u>Staff</u>	<u>Activity</u>	<u>Time</u>	<u>Currency</u>	<u>Amount</u>	<u>Balance</u>	<u>Detail</u>
12/7/18	State Withholding on Employee Settlement	Goldstein, Richard	Telephone Conference	0.75	USD	412.50	412.50	Teleconference with Krissa Lietz regarding Dowling college multistate withholding issues for payments related to wage settlements with former employees.
12/7/18	State Withholding on Employee Settlement	Lietz, Krissa K.	Correspondence/Typing/Processing/Filing	1.30	USD	279.50	279.50	Phone call w/ Rich to discuss client situation re litigation awarded wages and state reporting, conference call w/ client re same, etc.
12/6/18	State Withholding on Employee Settlement	Petercsak, Catherine	Telephone Conference	1.00	USD	360.00	360.00	call with Richard Goldstein, neil Bivona & bob Rosenfeld on state withholding on WARN payments
12/6/18	State Withholding on Employee Settlement	Goldstein, Richard	Telephone Conference	1.00	USD	550.00	550.00	Teleconference with Robert Rosenfeld, Catherine Petercsak and Neil regarding multistate withholding issues related to a wage settlement with former employees.
11/29/18	State Withholding on Employee Settlement	Petercsak, Catherine	Correspondence/Typing/Processing/Filing	0.50	USD	180.00	180.00	call with Richard to discuss state withholdings for settlement payments
11/29/18	State Withholding on Employee Settlement	Goldstein, Richard	Out of Scope Activities	0.50	USD	275.00	275.00	Research, review and analysis of NY income tax withholding requirements for severance payments to former employees. Teleconference with Catherine Petercsak regarding same.
11/27/18	State Withholding on Employee Settlement	Petercsak, Catherine	Correspondence/Typing/Processing/Filing	0.50	USD	180.00	180.00	call with client to discuss reporting of state withholdings for claimants on wages. discuss with barry and email Richard Goldstein about question.
10/25/18	Dissolution Tax Compliance Discussions	Petercsak, Catherine	Correspondence/Typing/Processing/Filing	0.50	USD	180.00	180.00	call with bob to discuss dissolution at 8/15/19.
10/18/18	Dissolution Tax Compliance Discussions	Petercsak, Catherine	Correspondence/Typing/Processing/Filing	0.25	USD	90.00	90.00	correspond with ellen and Julius and client on fees and what tax return to file
10/17/18	Dissolution Tax Compliance Discussions	Petercsak, Catherine	Correspondence/Typing/Processing/Filing	0.75	USD	270.00	270.00	-review TB to confirm if anything that would trigger additional time & correspond with client & troy on whether dissolution of charter would dissolve exempt status and ellen on proposed fee -call with Julius to discuss which tax forms to file -call with client to discuss which forms to file
10/16/18	Dissolution Tax Compliance Discussions	Petercsak, Catherine	Correspondence/Typing/Processing/Filing	0.50	USD	180.00	180.00	look into whether client will need to file 990 or for profit tax return & confirming with JG.
10/15/18	Dissolution Tax Compliance Discussions	Petercsak, Catherine	Correspondence/Typing/Processing/Filing	0.50	USD	180.00	180.00	call with bob to discuss filing final tax return and proposed fees post bankruptcy
9/25/18	Fee Applications	Petercsak, Catherine	Telephone Conference	0.25	USD	90.00	90.00	-call with lauren to discuss next steps in process to get final holdback payment. -correspond with Richard Goldstein on sales tax voluntary disclosure
9/24/18	NYS Property Sales Tax Compliance	Lukens, Chuck	Meetings/Board Meetings/Hearings	0.75	USD	168.75	168.75	Review NY casual sale.
9/18/18	NYS Property Sales Tax Compliance	Petercsak, Catherine	Out of Scope Activities	0.25	USD	90.00	90.00	call with Robert to discuss sales tax on sale of personal property
9/18/18	NYS Property Sales Tax Compliance	Goldstein, Richard	Out of Scope Activities	1.00	USD	550.00	550.00	Two calls with Bob Rosenfeld regarding New York State Sales Tax Compliance. Research and analysis. Review NY Sales tax return.
6/27/18	Fee Applications	Petercsak, Catherine	Out of Scope Activities	3.00	USD	1,080.00	1,080.00	prepare fee application for court approval & correspond with attorney on what to include in fee application
				13.30			5,115.75	

# **Exhibit B**

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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In re	: Chapter 11
	:
DOWLING COLLEGE,	:
f/d/b/a DOWLING INSTITUTE,	: Case No. 16-75545 (REG)
f/d/b/a DOWLING COLLEGE ALUMNI	:
ASSOCIATION,	:
f/d/b/a CECOM,	:
a/k/a DOWLING COLLEGE, INC.,	:
Debtor.	:
-----X	

**SUMMARY OF TIME BY TIMEKEEPER FOR SECOND INTERIM AND  
FINAL FEE APPLICATION OF BAKER TILLY VIRCHOW KRAUSE, LLP, TAX  
ACCOUNTANTS TO THE DEBTOR AND DEBTOR IN POSSESSION PURSUANT TO  
BANKRUPTCY CODE SECTIONS 330 AND 331 FOR ALLOWANCE OF  
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

**Second Interim Compensation Period**

**(June 1, 2018 through January 14, 2019)**

<b>Name of Accountant</b>	<b>2018 Hourly Rate</b>	<b>2018 Total Hours Billed</b>	<b>Total Compensation</b>
Richard Goldstein, Director	\$550	3.25	\$1,787.50
Catherine Petercsak, Manager	\$360	8	\$2,880.00
Chuck Luckens, Senior Accountant	\$225	.75	\$ 168.75
Krissa Lietz, Senior Associate Accountant	\$215	1.3	\$ 279.5
<b>Totals</b>		<b>13.30</b>	<b>\$5,115.75</b>

**Representation Period****(September 27, 2017 through January 14, 2019)**

<b>Name of Accountant</b>	<b>2017 Hourly Rate</b>	<b>2017 Total Hours Billed</b>	<b>2018 Hourly Rate</b>	<b>2018 Total Hours</b>	<b>Total Compensation</b>
Ellen Labita, Partner	\$600	12.00	N/A	N/A	\$7,200.00
Richard Goldstein, Director	N/A	N/A	\$550	3.25	\$1,787.50
Troy Marine, Tax Director	\$331.25	2.50	N/A	N/A	\$662.50
Catherine Petercsak, Manager	\$335	42.85	\$360	8	\$17,234.75
Chuck Luckens, Senior Accountant	N/A	N/A	\$225	.75	\$ 168.75
Krissa Lietz, Senior Associate Accountant	N/A	N/A	\$215	1.3	\$ 279.5
Catherine Borriello, Staff	\$150	23.50	N/A	N/A	\$3,525.00
Less Discount to arrive at 2015 and 2016 tax returns fixed fee of \$25,000					(\$742.25)
<b>Totals</b>		<b>80.85</b>		<b>13.30</b>	<b>\$30,115.75</b>

# **Exhibit C**





**Representation Period****(September 27, 2017 through January 14, 2019)**

BILLING CATEGORY	HOURS BILLED	FEES SOUGHT
2016 Dowling College Form 990 Tax Return	42.85	\$12,500.00
2016 Dowling College Form 990 Tax Return	38.00	\$12,500.00
NYS Property Sales Tax Compliance	2	\$808.75
Dissolution Tax Compliance Discussions	2.5	\$900.00
State Withholding on Employee	5.55	\$2,237.00
Fee Applications	3.25	\$1,170.00
<b>TOTAL:</b>	<b>94.15</b>	<b>\$30,115.75</b>

# **Exhibit D**

**Baker Tilly Virchow Krause, LLP**

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Facsimile: (631) 752-1742

Ellen Labita, Partner

Catherine Petercsak, Manager

*Tax Accountants to the Debtor and Debtor-  
in- Possession*

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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In re : Chapter 11  
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f/d/b/a DOWLING INSTITUTE, : Case No. 16-75545 (REG)  
f/d/b/a DOWLING COLLEGE ALUMNI :   
ASSOCIATION, :   
f/d/b/a CECOM, :   
a/k/a DOWLING COLLEGE, INC., :   
Debtor. :   
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**CERTIFICATION OF ELLEN LABITA REGARDING THE  
SECOND INTERIM AND FINAL FEE APPLICATION OF  
BAKER TILLY VIRCHOW KRAUSE LLP, AS TAX ACCOUNTANTS  
TO THE DEBTOR AND DEBTOR IN POSSESSION, FOR AN ALLOWANCE  
OF COMPENSATION AND REIMBURSEMENT OF EXPENSES**

I, Ellen Labita, hereby certify that:

1. I am a partner with the firm Baker Tilly Virchow Krause, LLP (“BTVK”), which serves as tax accountants to Dowling College, debtor and debtor-in-possession in the above-captioned chapter 11 case (the “Chapter 11 Case”). This Certification is made in support of BTVK’s application (the “Application”) for a second interim and final allowance of compensation for services rendered and reimbursement of expenses, in compliance with General Order 613, Guidelines for Fees and Disbursements for Professionals in Eastern District of New York

Bankruptcy Cases, effective as of June 10, 2013 (the “General Order”), the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, adopted on January 30, 1996 (the “UST Guidelines”), and this Court’s Order Pursuant to 11 U.S.C. §§ 105(A) and 331 Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals [Docket No. 117] (the “Interim Compensation Order” and together with the General Order, UST Guidelines and the Large Case Guidelines, the “Guidelines”).

2. I certify that:

a. I have read the Application;

b. To the best of my knowledge, information, and belief formed after reasonable inquiry, the fees and expenses sought fall within the Guidelines;

c. The fees and disbursements sought are billed at rates and in accordance with practices customarily employed by BTVK and generally accepted by BTVK’s clients; and

d. In providing the reimbursable services reflected in the Application, BTVK did not make a profit on those services, whether performed by BTVK in-house or through a third party.

3. With respect to Section B(2) of the General Order, I certify that BTVK has complied with the provisions requiring it to provide to the Debtor, the U.S. Trustee for the Eastern District of New York, and the Creditors’ Committee a statement of BTVK’s fees and expenses accrued during previous months.

4. With respect to Section B(3) of the General Order, I certify that the Debtor, the U.S. Trustee for the Eastern District of New York and the Creditors’ Committee are each being provided with a copy of the Application and this Certification.

Dated: New York, New York  
January 16, 2019

**BAKER TILLY VIRCHOW KRAUSE,  
LLP**

By: /s/ Ellen Labita

Ellen Labita  
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